IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.APPLICATION NO.595 OF 2007

Mr.Riteshkumar Hasmukhbhai Patel ..Applicant

Vs.

State of Maharashtra & Ors. ..Respondents

...

Mr.H.E.Palwe counsel for Applicant
Smt.V.R.Bhosale, A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : FEBRUARY 27, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of proceedings relating to Complaint No.6095/SS/05 which is pending before the Metropolitan Magistrate, 7th Court, Dadar. In the said case, the process has been issued against the applicant under Section 138 of Negotiable Instruments Act. The learned advocate for the applicant submitted that the learned Magistrate committed an error in

issuing process and the said process deserves to be set aside. If the process issued against the applicant is set aside, the proceedings in respect of the applicant, would come to an end.

3. However, for the reasons recorded in the order passed by this Court in the case of **V.K.Jain Vs. P.V.Padode; 2005(3) Mh.L.J.778,** I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within a period of six weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of six weeks.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Application is disposed of.

[V.K.TAHILRAMANI,J.]